

BEFORE DELHI VALUE ADDED TAX, APPELLATE TRIBUNAL, DELHI
Sh. Narinder Kumar, Member (Judicial)

M.A. No. 64/Stay/23
In Appeal No. 49/ATVAT/23
Date of Order: 04/05/2023

M/s. Shashi Dhawal Hydraulics Pvt. Ltd.,
Caxton House 2E, Rani Jhansi Road,
Jhandewalan Extension,
New Delhi-110055.

.....Applicant

v.

Commissioner of Trade & Taxes, Delhi

.....Respondent

Counsel representing the Applicant : Ms. Shilpi Dewan.
Counsel representing the Revenue : Sh. M. L. Garg.

ORDER

1. On 17/03/2023, on behalf of the dealer company, this appeal came to be presented before the Registry. It is accompanied by application u/s 76(4) of Delhi Value Added Tax Act (hereinafter referred to as DVAT Act).
2. As per case of the dealer, on 17/03/2022, Assessing Authority – AVATO (Ward 43) framed default assessment of tax and interest under Central Sales Tax Act (hereinafter referred to as CST Act), and raised demand of tax of Rs. 3,49,785/- and that of interest of Rs. 2,43,220/-, due to the reason that dealer failed to submit “C” forms of the value of Rs. 88,12,310/-, “F” forms

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of the value of Rs. 16,28,292/- and "H" forms of the value of Rs. 80,017/-.

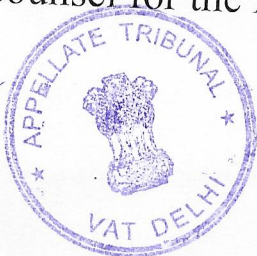
3. Feeling dissatisfied with the above said default assessment, dealer filed objections before learned SOHA.
4. Vide order dated 18/01/2023, learned SOHA reduced the demand of tax to Rs. 1,49,553/- and that of interest to Rs. 1,22,797/-, keeping in view that the dealer had produced before him, 106 "C" forms of the value of Rs. 66,74,400/-, and also taking into consideration that the dealer had failed to produce remaining statutory forms.
5. Still feeling aggrieved, dealer has come up in appeal before this Appellate Tribunal.
6. In the grounds of appeal, dealer ~~has~~ alleged that "C" and "F" forms are available with the said dealer i.e. appellant and same shall be produced as and when desired by this Appellate Tribunal and further that the said forms may be admitted.
7. Even though, in the memorandum of appeal, dealer has tried to explain that the said forms, available with him, have been obtained subsequently, in the application submitted today seeking production of "F" Forms it has been submitted that these 5 Forms were available with the Accountant and that due



to his mistake same could not be produced before the Revenue Authorities.

8. Arguments heard. File perused.
9. It may be mentioned here that today learned CA has submitted 5 "F" forms pertaining to 1st Quarter of 2017-18, while claiming in the application, presented today, that the same were lying with the Accountant of the applicant, but due to mistake he could not produce the same before Revenue Authorities.
10. Learned counsel for the Revenue submits that from the date of issuance, said forms appear to have been issued in the year 2019 i.e. even prior to the framing of the assessment by the Assessing Authority, but the applicant has not given any sufficient cause for their non-production.
11. As already noticed above, in the application submitted today dealer has alleged that due to mistake of the Accountant, these 5 forms could not be submitted before the Revenue Authorities. At this stage, from the said submission, prima facie taking into consideration that these forms could not be produced before the Revenue Authorities, even though available with the Accountant, applicant-dealer cannot be allowed to suffer. It is a different matter that even at the time of final arguments, the dealer shall have to address this contention raised by learned counsel for the Revenue.

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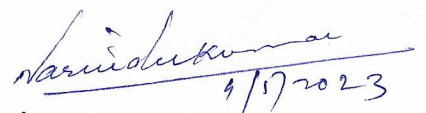


12. At this stage, learned CA submits that taking into consideration the value of the 5 "F" forms today produced on record, as against the value of the remaining statutory forms, not produced so far, dealer-applicant is ready to deposit a sum of Rs. 71,130/- within 15 days from today, by way of pre-deposit for the purpose of entertainment of this appeal.
13. Having regard to the above said submission, and taking into consideration the production of the copies of 5 "F" forms, this appeal is entertained subject to deposit of Rs. 71,130/- by way of pre-deposit within 15 days from today. This application is disposed of accordingly.
14. Copy of the order be supplied to both the parties as per rules. One copy be sent to the concerned authority. Another copy be displayed on the concerned website.

Announced in open Court.

Date: 04/05/2023




(Narinder Kumar)
Member (Judicial)